

RECEIVED
MAY 28 2003

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

VILLAGE OF FOX RIVER GROVE, ILLINOIS,

Petitioner,

V.

UNION PACIFIC RAILROAD (UP)
and the STATE OF ILLINOIS, DEPARTMENT OF
TRANSPORTATION (IDOT),

) Docket No. T01-0016

Respondents.

Petition to 1) interconnect traffic signals to be installed at the intersection of U.S. Route 14 (Northwest Highway) and Foxmoor Road with the railroad warning devices at the Foxmoor Road at-grade crossing of the UP double mainline tracks in the Village of Fox River Grove; 2) establish the amount of minimum preemption time provided by the UP to IDOT for the traffic signal preemption sequence at said intersection; 3) provide a 6' wide sidewalk platform across the tracks; 4) move the railroad control cabinet "bungalow" out of the driver sight lines of school buses crossing the tracks; and 5) install the southeast side traffic presignals on a railroad signal cantilever.

REQUEST FOR EXTENSION OF TIME

Petitioner, Village of Fox River Grove (“Village”), by and through its attorney, Peter M. Rosenthal, of Rosenthal, Murphey & Coblenz files this Request for Extension of Time and in support thereof states as follows:

1. In the Commission's October 24, 2001 Supplementary Interim Order on Reconsideration (the "October 24, 2001 Supplementary Interim Order"), the Commission ordered that "the parties are hereby required and directed to proceed immediately in performing the work required of them and shall complete these respective improvements within eighteen (18) months from the date of this Order."
2. The October 24, 2001 Supplementary Interim Order provides that the Illinois Department of Transportation ("IDOT") or an IDOT Contractor is to install traffic signals at the intersection of Foxmoor Road and U.S. Route 14, including traffic signal lights on a

DOCKETED

cantilever above Foxmoor Road (the "Cantilever") which is to be located on the southeast side of the Union Pacific Railroad tracks where the tracks intersect Foxmoor Road. The Cantilever is to be installed on property that is owned by the Union Pacific Railroad, (the "Railroad").

3. The October 24, 2001 Supplementary Interim Order also provides that the Railroad is to install the Cantilever and all of the railroad signals and circuitry required by the October 24, 2001 Supplementary Interim Order, including an interconnection between the traffic signals that are to be installed and the railroad crossing warning signals.
4. The work required to be performed by IDOT or an IDOT contractor under the October 24, 2001 Supplementary Interim Order is being performed by a contractor, Alliance Contractors Inc., who was retained by the developer of the shopping center property located on the north side of U.S. Route 14, the Phase II Partnership. A copy of the contract between Alliance Contractors and the Phase II Partnership which provides for the installation of the traffic signals at the intersection of Foxmoor Road and Route 14, and the other work required to be performed by IDOT or an IDOT contractor under the October 24, 2001 Supplementary Interim Order is attached as Exhibit A. Attached as Exhibit B is a copy of the agreement between the Village and the Phase II Partnership which provides for the Phase II Partnership to install the traffic signals at the intersection of Foxmoor Road and U.S. Route 14, and perform any other and the other work required to be performed by IDOT or an IDOT contractor under the October 24, 2001 Supplementary Interim Order.
5. Work on the installation of the traffic signals at the intersection of Foxmoor Road and U.S. Route 14 could not proceed until IDOT issued a permit to the Village allowing the traffic installation work and other related work that is to be performed within the right of way of U.S. Route 14 to proceed. This permit was issued by IDOT to the Village on April 23, 2003. A copy of the IDOT Permit (Permit No. 1-03-135) is attached as Exhibit C. The issuance of the IDOT Permit was delayed due to the shopping center developer's delay in selecting a contractor to perform the traffic signal installation work. (This delay resulted, at least in part, to a change in the ownership of the shopping center.)
6. Alliance Contractors, Inc. has provided a letter dated May 19, 2003, a copy of which is attached to this Request as Exhibit D, that describes the current status of the project. According to this letter, work on the traffic signal installation will begin the week of May 26, 2003, with an anticipated date of completion of approximately September 15, 2003. The reason for the length of time it will take to complete installation of the traffic signals is due to the time it takes for the necessary equipment to be manufactured and delivered after it is ordered.
7. In addition to the installation of the traffic signals, the work provided for under the October 24, 2001 Supplementary Interim Order cannot be completed until the Railroad erects the Cantilever and does the work required to install the railroad signals and circuitry, including the interconnection between the traffic signals and the railroad crossing warning signals. It is believed that the Railroad has already started some of the necessary circuitry work, but

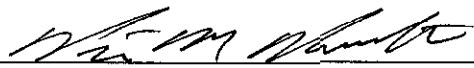
that this work cannot be completed until the traffic signals are actually installed. In addition the Cantilever has yet to be installed. The Village's engineers, Baxter and Woodman, have been advised by the Railroad that work on the installation of the Cantilever is scheduled to begin during the week of May 26, 2003.

8. The Village, through its engineers, Baxter and Woodman, is coordinating the inspection of the traffic signal and related work that is being performed by Alliance Contractors, Inc. Christopher B. Burke Engineering, Ltd. has been (or will be) retained by the developer, Phase II Partnership, to act as the supervising engineer for the installation of the traffic signals.
9. The Village has been working diligently since the entry of the October 24, 2001 Supplementary Interim Order to have the work required under the Order completed and will continue to work with the developer, Phase II Partnership, and Alliance Contractors, Inc., to complete the installation of the traffic signal and the related work.
10. However, due to delays beyond the control of the Village, which relate primarily to a change in the identity of the developer as a result of a sale of interests in the shopping center and the delay in the developer's retaining a contractor to perform the required work, the installation of the traffic signals and other portions of the work required to be performed by IDOT or IDOT's Contractor under the October 24, 2001 Supplementary Interim Order will not be completed by the date specified in the order.
11. Based on the representations made by Alliance Contractors in the letter, a copy of which is attached as Exhibit D to this Request, and assuming that the Railroad is able to complete the work which it is required to perform under the October 24, 2001 Supplementary Interim Order, the Village anticipates that all work required to be performed under the October 24, 2001 Supplementary Interim Order will be completed no later than October 31, 2003. The Village therefore, requests that the time the work required under the Order is to be completed be extended until October 31, 2003.

WHEREFORE, Petitioner, Village of Fox River Grove, Illinois, respectfully requests that the Illinois Commerce Commission grant its request and issue a ruling extending the time for all of the work required to be completed under the October 24, 2001 Supplementary Interim Order until October 31, 2003. The Village of Fox River Grove further prays that this Request for Extension of Time be granted without a hearing.

Respectfully submitted,
Village of Fox River Grove, Illinois

By:



Peter M. Rosenthal
One of Their Attorneys

Date:

MAY 23, 2003

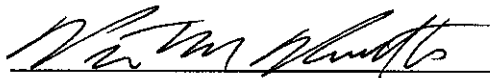
Peter M. Rosenthal
Rosenthal Murphey & Coblenz
30 N. LaSalle St., Suite 1624
Chicago, IL 60602
Phone: (312) 541-1070
Fax: (312) 541-9191
prosenthal@rmcj.com

G:\rmcj\FRG\icc\Request for extension of time.wpd

VERIFICATION

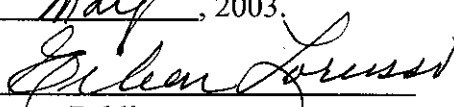
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, PETER M. ROSENTHAL, being first duly sworn, depose and state that I am one of the attorneys representing the Village of Fox River Grove, Petitioner, in this matter; that I have read the foregoing verified Request for Extension of Time; that I know the contents thereof; and that the statements made in said Request are true and correct to the best of my knowledge, information and belief.

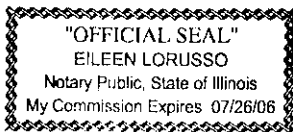


Peter M. Rosenthal
Attorney for the VILLAGE OF FOX RIVER GROVE
Petitioner

SUBSCRIBED AND SWORN TO
before me this 4th day of

May, 2003.

Notary Public

G:\rmcj\FRG\icc\Verification pmr.wpd



**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

VILLAGE OF FOX RIVER GROVE, ILLINOIS,)	
)	
Petitioner,)	
)	
v.)	
)	
UNION PACIFIC RAILROAD (UP))	Docket No. TO1-0016
and the STATE OF ILLINOIS, DEPARTMENT OF)	
TRANSPORTATION (IDOT),)	
)	
Respondents.)	
)	
Petition to 1) interconnect traffic signals to be installed at the)	
intersection of U.S. Route 14 (Northwest Highway) and Foxmoor)	
Road with the railroad warning devices at the Foxmoor Road)	
at-grade crossing of the UP double mainline tracks in the Village of)	
Fox River Grove; 2) establish the amount of minimum preemption)	
time provided by the UP to IDOT for the traffic signal preemption)	
sequence at said intersection; 3) provide a 6' wide sidewalk platform)	
across the tracks; 4) install the southeast side traffic presignals on a)	
railroad signal cantilever.)	

CERTIFICATE OF SERVICE

TO: Donna Caton, Chief Clerk
Illinois Commerce Commission
527 East Capitol Av.
Springfield, IL 62701

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies as true that he served the foregoing **REQUEST FOR EXTENSION OF TIME** upon:

Mack H. Shumate, Jr.
Union Pacific Railroad Company
101 N. Wacker Dr. Suite 1920
Chicago, IL 60606

James Slifer, Director
Division of Highways
Illinois Department of Transportation
2300 S. Dirksen Parkway Room 300
Springfield, IL 62764

David W. McKernan
Industry & Public Projects
Union Pacific Railroad Company
210 North 13th St. Room 1612
St. Louis, MO 63103

C T Corporation System
Union Pacific Railroad Company
208 South LaSalle St.
Chicago, IL 60604

Joseph H. O'Brien, Director
Review & Examination
Illinois Commerce Commission
527 East Capitol Av.
Springfield, IL 62701

Ms. June B. Tate
Illinois Commerce Commission
527 East Capitol Av.
Springfield, IL 62701

Mr. Daniel Powers
Illinois Commerce Commission
527 East Capitol Av.
Springfield, IL 62701

Mr. John Blair
Illinois Commerce Commission
527 East Capitol Av.
Springfield, IL 62701

Stacey C. Hollo
Special Assistant Attorney General
2300 S. Dirksen Parkway Room 311
Springfield, IL 62764

by placing copies of same into envelopes correctly addressed as aforesaid and bearing sufficient postage prepaid and depositing same in the U.S. Mail at 30 N. LaSalle Street, Chicago, IL 60602 before 5:00 p.m. on **May 23, 2003**.



PETER M. ROSENTHAL
ROSENTHAL, MURPHEY & COBLENTZ
30 N. LaSalle St. Suite 1624
Chicago, IL 60602
Phone: 312/541-1070
Fax: (312)541-9191
prosenthal@rmcj.com

FOXMOOR ROAD / ROUTE 14 INTERSECTION IMPROVEMENTS

AGREEMENT

THIS AGREEMENT is dated as of the 7th day of April in the year 2003 by and between Phase II Partnership L.L.C. (hereinafter called OWNER), and Alliance Contractors, Inc. (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, for and in consideration of the mutual provisions and covenants contained herein, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1. WORK

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work, located at the intersection of Foxmoor Road and Route 14 in the Village of Fox River Grove (hereinafter called VILLAGE), is generally described as: pavement widening, installation of traffic signals, channelization, railroad crossing signals, sidewalk, pavement markings and other incidental and miscellaneous items of work necessary for a complete and proper installation.

1.02 Included in the Work to be completed by the CONTRACTOR for the OWNER are items that will be paid for by the VILLAGE. Those items are generally described as:

1. A right turn lane for eastbound motor vehicles on Route 14 turning south onto Foxmoor Road.
2. A sidewalk adjacent to the east side of Foxmoor Road that will extend from the north side of Route 14 to the south side of Asbury Avenue inclusive of pedestrian signals.

ARTICLE 2. ENGINEERS

2.01 Christopher B. Burke Engineers LTD., who shall act as the OWNER's representative, and Baxter & Woodman, Inc., Consulting Engineers, who shall act as the VILLAGE's representative, hereinafter called ENGINEERS, will assume the duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3. CONTRACT TIME

3.01 The Work will be completed and ready for final payment within _____ days after the date of this Agreement.

AGREEMENT
1 (021230)



ARTICLE 4. CONTRACT PRICE

4.01 OWNER shall pay CONTRACTOR for completion of the Work, except as noted below in Subarticle 4.02, in accordance with the conditions and prices stated in CONTRACTOR's Bid pursuant to the provisions of the Contract Documents.

4.02 OWNER shall pay or shall have VILLAGE pay CONTRACTOR for completion of the Work listed in Subarticle 1.02 in accordance with the conditions and prices stated in CONTRACTOR's Bid pursuant to the provisions of the Contract Documents.

ARTICLE 5. PAYMENT PROCEDURES

5.01 CONTRACTOR shall submit original Application for Payment to Christopher B. Burke, LTD with a complete copy of the application to Baxter & Woodman, Inc. Application for Payment will be coordinated, reviewed, and, as approved, recommended for payment by ENGINEERS.

ARTICLE 6. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

6.01 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

6.02 CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

6.03 CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing underground facilities at or contiguous to the site and assumes responsibility for the accurate location of said underground facilities. No additional examination, investigations, explorations, tests, reports, studies or similar information or data in respect of said underground facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.

6.04 CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

6.05 CONTRACTOR has given the ENGINEERS written notice of all conflicts, errors or discrepancies that he/she has discovered in the Contract Documents and the written resolution thereof by the ENGINEERS is acceptable to the CONTRACTOR.

ARTICLE 7. CONTRACT DOCUMENTS

7.01 The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of this Agreement, Specifications and Drawings, all Addenda issued prior to receipt of Bids, CONTRACTOR's Bid, Insurance Certificates, IDOT Permit Requirements, Performance and Payment Bonds, and all written Amendments issued after the Effective Date of the Agreement.

ARTICLE 8. MISCELLANEOUS

8.01 CONTRACTOR's liability insurance policies shall name the OWNER, VILLAGE, and ENGINEERS as additional insureds. The CONTRACTOR acknowledges and accepts that the Work cannot be initiated without liability insurance coverage approved by the OWNER and VILLAGE.

8.02 CONTRACTOR shall comply with all applicable laws, rules, and regulations pertaining to equal employment opportunity, non-discrimination and payment of wages, including, but not limited to the Prevailing Wage Act, the Illinois Human Rights Act, regulations of the Illinois Department of Transportation (IDOT), the Federal Highway Act, and Executive Orders issued by the United States Government.

8.03 CONTRACTOR acknowledges and accepts that he/she is not entitled to receive payment for the Work listed in Subarticle 1.02 until the CONTRACTOR's Application for Payment is reviewed by Baxter & Woodman, Inc. and approved for payment by the VILLAGE.

8.04 CONTRACTOR shall to maintain its books and records relating to the construction of the improvements listed in Subarticle 1.02, along with any supporting documents, for a period of three years after the completion of the Work, and to make these books and records available for inspection by the VILLAGE, IDOT, or the Illinois Auditor General.

8.05 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitations, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

AGREEMENT

3 (021230)

8.06 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement as of the day and year first above written.

OWNER:

(SEAL)

PHASE II PARTNERSHIP, LLC *
By: [Signature]

ATTEST:

THEODORE C. WAGNER, MANAGER
Name - Title

Name - Title

* AN ILLINOIS LIMITED LIABILITY COMPANY

CONTRACTOR:

(SEAL)

Alliance Contractors, Inc.
By: [Signature]

ATTEST:

[Signature]
Clifford H. Dunteman, Asst. Secretary
Name - Title

Charles W. Ruth, President
Name - Title

END OF AGREEMENT

COPY

AGREEMENT RELATING TO
THE INSTALLATION OF A
TRAFFIC SIGNAL AT THE
INTERSECTION OF FOXMOOR
ROAD AND U.S. ROUTE 14
FOX RIVER GROVE, ILLINOIS

Prepared by:

Peter Rosenthal, Attorney
Rosenthal, Murphey + Coblenz
30 North La Salle Street
Suite 1624
Chicago IL 60602

received
12-4-02

Phyllis K. Walters
McHENRY COUNTY RECORDER

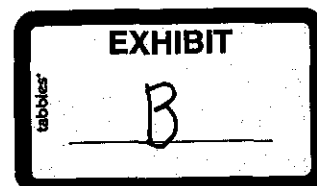
(FOR RECORDER'S USE ONLY)

This Agreement is made as of the 3rd day of December, 2002, by and between the Village of Fox River Grove, Illinois, a municipal corporation, (the "Village") Community Care, L.L.C. (the "Developer"), an Illinois Limited Liability Company and Phase II Partnership, L.L.C. (the "Owner").

RECITALS

A. On February 17, 2000 the Village of Fox River Grove ("Village") entered into an Amended Redevelopment Agreement (the "Amended Redevelopment Agreement") with Developer, Fox River Grove Limited Partnership and Dominick's Finer Foods which provides for the redevelopment by Developer of a parcel of land which is described and referred to as the "Phase 2 Property". The Phase 2 Property is described in Exhibit A.

B. The Amended Redevelopment Agreement allows the Developer to recover the cost of installing a traffic signal at the intersection of Foxmoor Road and U.S. Route 14 (the "Traffic Signal"), as well as the costs related to connecting and coordinating the Traffic Signal with the warning lights and signals at the Foxmoor Road grade crossing of the Union Pacific Railroad tracks, (The "Foxmoor Road Grade Crossing"). The Foxmoor Road Grade Crossing is located immediately to the south of the intersection of Foxmoor Road and U.S. Route 14 (the "Traffic Signal \ Railroad Crossing Signal Interconnection"). The Amended Redevelopment Agreement allows the Developer to recover such costs as provided in the Amended Redevelopment Agreement in accordance with the provisions of the Illinois Tax Increment Allocation Redevelopment Act 65 ILCS 5/11-74.4-1 et seq. The Traffic Signal will provide a benefit to the Phase 2 Property by making it easier for motor



vehicle traffic to access the businesses and other uses which are now or may in the future be developed on the Phase 2 Property.

C. The Traffic Signal cannot be installed unless the Traffic Signal \ Railroad Crossing Signal Interconnection is also installed. Installation of the Traffic Signal \ Railroad Crossing Signal Interconnection required the approval of the Illinois Commerce Commission (the "ICC")

D. In accordance with an application filed by the Village at the request of the Developer, the ICC has issued orders in Illinois Commerce Docket No. T01-0016, Village of Fox River Grove v. Union Pacific Railroad and the State of Illinois, Department of Transportation, which allow for the installation of the Traffic Signal \ Railroad Crossing Signal Interconnection. These orders are a "Supplementary Interim Order on Reconsideration" dated October 24, 2001, which is attached as Exhibit B and a "Second Interim Order" dated June 19, 2002 which is attached as Exhibit C. (The October 24, 2001 Supplementary Interim Order on Reconsideration and the June 19, 2002, Second Interim Order are collectively referred to as the "ICC Orders". The term ICC Orders as used in this Agreement also includes any other orders issued by the ICC in ICC Docket No. T01-0016 or which relate to the Traffic Signal \ Railroad Crossing Signal Interconnection.)

E. Developer now desires to proceed with the installation of the Traffic Signal.

F. The ICC Orders require the Village to pay certain costs which may be incurred in the future in connection with the installation, maintenance, repair and replacement of the Traffic Signal \ Railroad Crossing Signal Interconnection, including, but not necessarily limited to, costs related to the replacement or substantial maintenance of a cantilever to be constructed on the southeast side of the railroad tracks on which warning signals and traffic signal lights are to be installed (the "Cantilever").

G. The Village, the Developer and the Owner have agreed that the Developer and Owner (and the successors and assigns of the Developer and Owner) shall jointly and severally assume and perform on behalf of the Village any and all obligations which the Village may have under the ICC Orders relating to the installation, maintenance, repair and replacement of the Traffic Signal \ Railroad Crossing Signal Interconnection and that the Village shall have a lien against the Phase 2 Property for any amounts which it may have to expend in order to comply with the requirements of the ICC Orders. Developer and Owner shall not be responsible for any ICC requirements that may include the installation of sidewalks in or adjoining the southerly Route 14 right of way and turn lanes south of the center line of Route 14 and such sidewalks or turning lanes shall not be considered to be part of the Traffic Signal or the Traffic Signal \ Railroad Crossing Signal Interconnection for purposes of this Agreement.

H. The Village, the Developer and the Owner have also agreed that in the event that the Village should become liable for the payment of any other costs in connection with the installation, operation, maintenance, repair or replacement of the Traffic Signal in addition to costs that are the Village's obligation under the ICC Orders, that the Developer and Owner (and the successors and

assigns of the Developer and Owner) shall jointly and severally have the obligation to either pay such costs on behalf of the Village or to promptly reimburse the Village for such costs, and that the Village shall also have a lien against the Phase 2 Property for any amounts which the Village may be required to pay to install, operate, maintain, repair or replace the Traffic Signal for which the Village does not receive prompt reimbursement as provided in this Agreement.

I. The Village, Developer and Owner are entering into this agreement for the purpose of setting forth each party's obligations with regard to the installation, operation, maintenance, repair, and replacement of the, including the Traffic Signal \ Railroad Crossing Signal Interconnection.

J. It is the intent of the Village, Developer and Owner that any and all obligations and rights which the Owner may have under this Agreement are to be binding upon and inure to the benefit of all persons who have a fee interest, in whole or in part, to the Phase 2 Property, and that such obligations and rights shall be a covenant which runs with the title to the Phase 2 Property.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS SET FORTH BELOW, IT IS AGREED BY AND BETWEEN THE VILLAGE, THE DEVELOPER AND THE OWNER as follows:

1. **Incorporation of Recitals.** The representations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made part of this Agreement as though they were fully set forth in their entirety in this Section 1.

2. **Installation of the Traffic Signal.** The Developer shall take any and all steps reasonably required to cause the Traffic Signal to be installed and operable on the date that the Traffic Signal \ Railroad Crossing Signal Interconnection becomes operable, or June 19, 2003 whichever is the first to occur. The Developer shall enter into such agreements with the Illinois Department of Transportation ("IDOT") relating to the installation, operation, maintenance, repair and replacement of the Traffic Signal as IDOT may require as a condition for IDOT permitting the installation and operation of the Traffic Signal, unless IDOT requires that the Village enter into such agreements. In the event IDOT requires the Village to enter into such agreements the Village shall enter into such agreements with IDOT, subject to the provisions of Section 3(C). The Developer and/or Owner shall promptly pay any and all costs which may be incurred in connection with the installation, operation, maintenance, repair and replacement of the Traffic Signal which are not paid by IDOT, provided that if IDOT requires that any such costs be paid by the Village, then the Developer and/or the Owner shall pay such costs on behalf of the Village or promptly reimburse the Village as set forth in Section 5. The term "IDOT" as used in this Agreement, includes the Illinois Department of Transportation, the State of Illinois, any agency or department of the State of Illinois, and any other federal, state or local governmental agency (other than the Village) who has jurisdiction over Route 14 or which has the authority to issue permits required for the installation, operation, maintenance, repair or replacement of the Traffic Signal.

3. **Village Cooperation with Installation of Traffic Signal and the Traffic Signal \ Railroad Crossing Signal Interconnection.**

(A) The Village shall cooperate and assist Developer in the installation of the Traffic Signal by promptly reviewing and signing any and all permit applications and similar documents which may be required in order for the Traffic Signal to be installed.

(B) The Village shall take any action reasonably required in connection with the installation of the Traffic Signal \ Railroad Crossing Signal Interconnection, provided that the Village shall have the right to be reimbursed by Developer for any out of pocket costs the Village incurs after the date of this agreement in connection with the installation of the Traffic Signal \ Railroad Crossing Signal Interconnection as provided in Sections 2 and 5.

(C) In the event that IDOT requires that the Village enter into an agreement with IDOT (the "IDOT Agreement") in connection with the installation, operation, maintenance, repair and/or replacement of the Traffic Signal, the Village shall, as provided in Section 2 enter into the IDOT Agreement. The Developer and/or Owner shall either pay any and all costs for which the Village may be liable, or otherwise responsible for paying under the IDOT Agreement or if such costs are paid by the Village, the Developer and/or Owner shall then promptly reimburse the Village for such costs as provided in Section 5. The obligation of the Developer and Owner under this Section 3(C) to pay costs on behalf of the Village or to reimburse the Village for costs shall be a joint and several obligation of the Developer and the Owner.

4. **Developer's and Owner's Obligation to Pay or Reimburse the Village for Costs Relating to the Traffic Signal \ Railroad Crossing Signal Interconnection.**

(A) The Developer and Owner shall pay or promptly reimburse the Village for any costs and expenses which the Village may incur in performing its obligations under the ICC Orders as provided in Section 5. The costs and expenses which the Developer and Owner shall pay include, but are not limited to, any costs and expenses which the Village may be required to pay under the provisions of the ICC Orders costs related to the replacement or substantial maintenance of the Cantilever.

(B) The obligation of the Developer and Owner to reimburse the Village as provided in this Section 4 shall be a joint and several obligation of the Developer and the Owner.

5. **Payments by Developer and Owner**

(A) The Developer and/or Owner shall make payment to the Village of any amounts which may be due to the Village under the provisions of this Agreement, including, but not limited to, the provisions of Sections 2, 3(B), 3(C) and 4 within thirty (30) days after receiving an invoice or other notice from the Village that payment is due.

(B) Where the Village is required to make a payment to IDOT or another third party under the provisions of the ICC Orders or the IDOT Agreement, the Developer or Owner shall make such payment to IDOT or the third party if requested to do so. Such payment shall be made by the Developer or the Owner within not more than thirty (30) days after Developer or Owner receives a notice from the Village that the payment is due and is to be made to IDOT or another third party. The notice shall state the name and address to which the payment is to be made, the amount of the payment and shall contain a description of the reason for the payment. The notice shall be accompanied by a copy of an invoice or other demand for payment, if an invoice or other demand for payment has been provided to the Village by IDOT or the other third party.

6. **Grantees, Successors and Assigns.** The rights and obligations provided set forth in this Agreement shall be binding upon and inure to the benefit of the Owner, the Developer and the Village and their respective, grantees, successors, assigns, heirs, administrators, and legal representatives (including, but not limited to, successor corporate authorities to the Village).

7. **Obligations of Owner Are a Covenant Running with the Phase 2 Property**

The rights, privileges and obligations of the Owner, including but not limited to the obligation to make payments to or on behalf of the Village as provided in Sections 2, 3(C) and 4 of this Agreement shall be deemed to be covenants appurtenant to and running with the land and shall remain in full force and effect so long as this Agreement is in effect and shall inure to the benefit of and be binding upon the Owner, its successors and assigns, and any person now or hereafter having title or legal ownership of a fee interest in all or any part of the Phase 2 Property. The foregoing shall apply whether or not the deed of conveyance or other instrument (such as by way of example, Articles of Agreement for Deed) through which such person claims a fee interest in all or any part of the Phase 2 Property makes reference to this Agreement, in like manner as though the provisions of this Agreement were recited and stipulated in full on each such deed of conveyance or other instrument.

8. **Lien Created**

The Village shall have a lien against the Phase 2 Property for any amounts which may be due to the Village from the Owner under the provisions of this Agreement which remain unpaid after the thirty day period specified in Section 5. The lien created under this Section in favor of the Village shall be enforceable by the Village in the same manner as provided for mortgage foreclosures under the Illinois Mortgage Foreclosure Act, as amended from time to time.

9. **Enforcement Costs**

Any and all costs and related expenses, including, but not limited to, attorneys fees, incurred by a party in an action at law or in equity brought to enforce the obligations of another party under this Agreement, including, but not limited to, obligations to make payments, shall be paid by the

party against whom such action is brought, if the party bringing the action prevails in such action. A party shall be considered to prevail if judgment is entered against the other party in the action or if the party obtains a court order or decree granting the party the relief it sought in bringing such action. Such costs and expenses shall either be included in the judgment entered in such action or shall be due and payable as provided in Section 5.

10. Recording

This Agreement may be recorded by either the Village, the Owner or the Developer in the Office of the McHenry County Recorder and following such recording, any contracts and deeds of conveyance relating to the Phase 2 Property or any part of the Phase 2 Property shall be subject to the provisions of this Agreement.

11. Unlawful Provisions

If any of the covenants, obligations or rights created by this Agreement would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rule imposing time limits, then such provision shall continue until twenty-one (21) years after the death of the last survivor of the now living lawful descendants of Joseph P. Kennedy, the father of John F. Kennedy, President of the United States of America from January 20, 1961 until November 22, 1963.

12. Notices.

All notices required or to be given pursuant hereto shall be in writing and either delivered personally or by a nationally recognized "overnight" courier service or mailed by United States certified or registered mail, postage prepaid, addressed to Village, Developer and Owner as follows:

To the Owner: Community Care, L.L.C.
Suite 1616
222 S. Riverside Plaza
Chicago, IL 60606
Attention: G.M. Azuma

To the Developer: Phase II Partnership, L.L.C.
Post Office Box 33
Fox River Grove, IL 60021
Attention: Theodore Wagner

With a copy to: Thomas C. Zanck
Militello, Zanck and Coen
40 Brink Street
Crystal Lake, IL 60014

To the Village: Village of Fox River Grove
305 Illinois Street
Fox River Grove, IL 60021
Attn: Village Clerk

With a copy to: Peter M. Rosenthal
Rosenthal, Murphey, & Coblentz
Suite 1624
30 N. LaSalle Street
Chicago, IL 60602

Notices shall be deemed effective and properly delivered and received when and if either;

- (a) personally delivered;
- (b) delivered by a nationally recognized overnight courier, such as Federal Express or United Parcel Service; or
- (c) three business days after being deposited in the U.S. Mail, by registered or certified mail, return receipt requested, postage prepaid.

Any Party may change the names and addresses of the persons to whom notices or copies thereof shall be delivered, by written notice to the other Parties as in the manner herein provided for the service of notice.

13. Amendment.

This Agreement, and any exhibits attached hereto, may be amended only by a written amendment executed by the Parties.

14. Entire Agreement.

This Agreement sets forth all agreements, understandings and covenants between and among the Parties relative to the matters that are the subject of this Agreement. This Agreement supercedes all prior written agreements, negotiations and understandings, written and oral.

15. Severability.

If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any of the other provisions, covenants, agreements or portions of this Agreement and, to that end, all provisions, covenants, agreements or portions of this Agreement are declared to be severable.

16. Governing Law and Venue.

This Agreement shall be construed in accordance with the laws of the State of Illinois. The venue for all actions relating to this Agreement shall be in McHenry County, Illinois.

17. Authority.

Each Party signing this Agreement represents and warrants that they have full right and authority to enter into and perform this Agreement in accordance with the terms hereof.

18. Interpretation.

This Agreement has been jointly negotiated by the Parties and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

19. Joint Venture Savings Clause.

Nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties, and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not provide for the joint exercise by the Parties of any activity, function, or service, nor does it create a joint enterprise, nor does it constitute either Party as an agent of the other for any purpose whatsoever.

20. Waiver.

No waiver of any provision or condition of this Agreement by any Party shall be valid unless in writing and signed by such Party. No waiver shall be taken as a waiver of any other or similar provision or of any future event, act or default. Any provision or condition or term hereof established primarily for the benefit of one Party hereto may be waived by such Party with or without notice, which waiver may be made retroactively.

21. Headings.

The headings or captions used in this Agreement are for the convenience of the parties and are not a part of this Agreement.

22. Counterparts.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the date and year first written above.

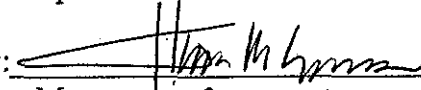
VILLAGE OF FOX RIVER GROVE,
a municipal corporation

By: 
Village President

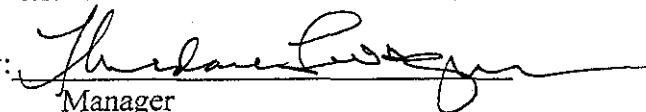
ATTEST:

Village Clerk

Developer: COMMUNITY CARE L.L.C.

By: 
Manager: GLENN M. AZUMA

Owner: PHASE II PARTNERSHIP L.L.C.

By: 
Manager

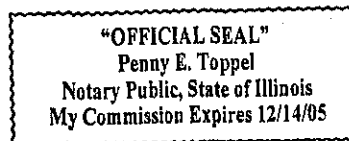
State of Illinois,
County of McHenry ss.

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Stephen J. Tasch and Donna Brouder, personally known to me to be respectively, the Village President and the Village Clerk of the Village of Fox River Grove, a municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing Agreement Relating to the Installation of a Traffic Signal at the Intersection of Foxmoor Road and U.S. Route 14, Fox River Grove, Illinois, appeared before me this day in person and severally acknowledged that as such Village President and Village Clerk, they signed and delivered the said instrument as their free and voluntary act on behalf of the Village of Fox River Grove, for the uses and purposes therein set forth.

Given under my hand and official seal, this 3rd day of December, 2002.

Penny E. Toppel
Notary Public

Commission expires 12/14/05.



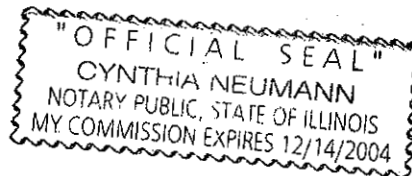
STATE OF ILLINOIS)
) SS.
COUNTY OF McHenry)

I, the undersigned, a Notary public in and for said County, the State aforesaid, DO HEREBY CERTIFY that Richard Wagner a Manager of Phase II Partnership, L.L.C., personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he/she signed, sealed and delivered this instrument as his/her own free and voluntary act and as the free and voluntary act of Phase II Partnership, L.L.C., for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 1st day of November, 2002.

Cynthia Neumann
Notary Public

Commission expires Dec. 14, 2004.



STATE OF ILLINOIS)
) SS.
COUNTY OF Cook)

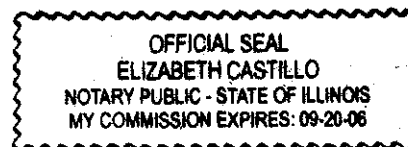
I, the undersigned, a Notary public in and for said County, the State aforesaid, DO HEREBY CERTIFY that GLENN M. AZUMA, a Manager of Community Care, L.L.C., personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he\she signed, sealed and delivered this instrument as his\her own free and voluntary act and as the free and voluntary act of Community Care, L.L.C., for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 26 day of November, 2002.


Notary Public

Commission expires 09-20-06

FRG (4) Agreement with Developer of Phase 2 TIF Traffic Signal.wpd

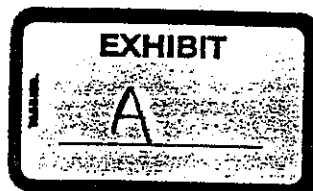


Phase 2 Property - Legal Description

Lot 2 in Anthony Straub Subdivision, being a Subdivision of part of the said Northwest Quarter of Section 20, Township 43 North, Range 9, East of the Third Principal Meridian, according to the Plat thereof recorded June 22, 1995 as Document No. 95R024093 (excepting that part being described as follows: Beginning at the Northeast corner of said Lot 2; thence South 16 degrees 27 minutes 46 seconds West along the easterly line of said Lot 2, a distance of 503.54 feet to the Southeast corner thereof; thence North 56 degrees 14 minutes 23 seconds West along the south line of said Lot 2, a distance of 70.50 feet; thence North 33 degrees 45 minutes 37 seconds East, 91.85 feet; thence North 16 degrees 27 minutes 45 seconds East, 72.00 feet; thence North 0 degrees 00 minutes 00 seconds West, 209.23 feet to the north line of said Lot 2; thence South 82 degrees 07 minutes 03 seconds East, 100.42 feet to the point of beginning), in McHenry County, Illinois.

Phase 2 Property - PIN Numbers

20-20-130-023 (part)



STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Village of Fox River Grove, Illinois,
Petitioner

v.

Union Pacific Railroad Company and
the State of Illinois, Department of
Transportation,

Respondents

Petition to 1) interconnect traffic signals
to be installed at the intersection of U.S.
Route 14 (Northwest Highway) and
Foxmoor Road with the railroad warning
devices at the Foxmoor Road at-grade
crossing of the Railroad's double main-
line tracks in the Village of Fox River
Grove; 2) establish the amount of
minimum preemption time provided by
the Railroad to the Department for the
traffic signal preemption sequence at
said intersection; 3) provide a six foot
(6') wide sidewalk platform across the
tracks; and 4) install the southeast side
traffic presignals on a railroad signal
cantilever.

T01-0016 Supp.

SUPPLEMENTARY INTERIM ORDER ON RECONSIDERATION

By the Commission:

On February 27, 2001, the Village of Fox River Grove, McHenry County, Illinois ("the Village"), filed the above-captioned verified petition with the Illinois Commerce Commission ("Commission"), naming as Respondents the Union Pacific Railroad Company ("the Railroad") and the State of Illinois, Department of Transportation ("IDOT").

Pursuant to notice as required by the Law and the rules and regulations of the Commission, the matter came on for hearing before a duly authorized Hearing Examiner of the Commissioner at its offices in Chicago on May 10, 2001. Appearances were entered by counsel for Petitioner and the Railroad and by a Railroad Safety Specialist from the Railroad Section, Transportation

Division of the Commission. At the conclusion of a full and public hearing on the aforementioned date, the record was marked "Heard and Taken."

Arthur Osten, Village Administrator; Glenn Azuma, Manager of Community Care, L.L.C., developer of the shopping center; George M. Ziegler, a licensed professional engineer employed by Christopher B. Burk Engineering, Ltd.; and James M. Graziano, a licensed professional engineer employed by Baxter & Woodman, Inc., a professional transportation design firm testified about the emerging needs of the Village in the vicinity of Foxmoor Road, U.S. Highway Route 14 ("Hwy. 14"), and the tracks of the Railroad.

Foxmoor Road intersects with Hwy. 14 approximately fifty-two feet (52') north of its at-grade crossing of the tracks. A shopping center is being developed on the north side of Hwy. 14 which now has an entrance and exit located directly across from where Foxmoor Road intersects with Hwy. 14 (the Foxmoor Road Shopping Center Entrance ["the Entrance"]). The Village proposes to provide pedestrian access between a nearby residential subdivision (Foxmoor Subdivision) and the shopping center and Hwy. 14. This walkway would allow pedestrians to walk from the Foxmoor Subdivision to Hwy. 14 and the shopping center without sharing the road with motor vehicles and bicycles.

To improve traffic flow and public safety, the Village proposes to modify the current right-in/right-out access at the Entrance to provide full access to the expanding shopping center by including an addition center-turn lane and east and west right-turn lanes on Hwy. 14.

In conjunction with the above, the Village proposes to replace the existing stop signs controlling traffic at the intersection of Hwy. 14 and Foxmoor Road with traffic signals. The proposed traffic signals which will govern the flow of traffic and pedestrians along Hwy. 14 and to and from Foxmoor Road will be under the jurisdiction of IDOT. The Village is of the opinion that highway traffic presignals on the southeast side of the crossing should be installed on a railroad signal cantilever.

Mr. Ziegler and Mr. Graziano testified in regard to the technical details and construction of the proposed presignals and signals.

The Village and its advisors recommend that the minimum simultaneous preemption time provided by the Railroad to IDOT for the proposed traffic signal preemption sequence at the Foxmoor Road crossing of the Railroad's tracks be set at twenty-five seconds (25").

Gerald E. Lienemann, manager of field engineering for the Railroad testified in opposition to the petition. The Railroad is not in favor of a mounted signal on the cantilever. The cantilever and signals are owned and maintained by the Railroad and access to the cantilever and signals would require a right-of-

entry agreement, cost agreements, an easement agreement, and maintenance using a bucket truck, thereby avoiding trespass upon Railroad property.

In closing, the Village requested that the Commission enter an Interim Order allowing installation of traffic signals on the cantilever or on a wire above the intersection, thereby allowing detailed costs of the project to be developed by the Railroad. The Village shall petition the Commission in the event that appropriate Commission action is required for the Village's construction of the proposed walkway from the Foxmoor Subdivision to U.S. Highway 14 and the shopping center.

The Commission, having reviewed the entire record herein and being advised in the premises, is of the opinion and finds that:

- (1) the Village of Fox River Grove, McHenry County, Illinois ("the Village") is a political subdivision within the State of Illinois;
- (2) Union Pacific Railroad Company ("the Railroad") is a for-hire carrier of passengers and/or freight within the State of Illinois and is a rail carrier as defined by the Illinois Commercial Transportation Law (Law");
- (3) the Department of Transportation of the State of Illinois ("IDOT") is an agency of the State of Illinois;
- (4) the Commission has jurisdiction over the parties and the subject matter of this petition;
- (5) Foxmoor Road is a public street within the Village and is under the jurisdiction of the Village;
- (6) Foxmoor Road crosses the tracks of the Railroad at-grade and is identified as DOT 174364F;
- (7) Foxmoor Road intersects with U.S. Route 14 fifty-two feet (52') north of the aforementioned crossing;
- (8) U.S. Route 14 is under the jurisdiction of IDOT;
- (9) a shopping center is being developed on the north side of U.S. Route 14, directly to the north of where Foxmoor Road intersects with the Railroad's tracks and intersections with U.S. Route 14;
- (10) the Village, through a private developer, proposes to modify the current right-in/right-out access at the shopping center to provide

full access to the shopping center with an additional center-turn lane and east and west right-turn lanes on U.S. Route 14;

- (11) in connection with the modification of the shopping center entrance and exit, the Village proposes to replace the existing stop signs controlling traffic at U.S. Route 14 and Foxmoor Road with traffic signals; the traffic signals which will control the flow of traffic and pedestrians along the subject area will be under the jurisdiction of IDOT;
- (12) the Village also proposes a sidewalk along the east side of Foxmoor Road, north and south of the Railroad's tracks to provide pedestrian access between the Foxmoor Residential Subdivision, the shopping center, and U.S. Route 14;
- (13) there has not yet been any indication that Commission action is required for the construction of the proposed sidewalk;
- (14) the operation of the existing automatic flashing lights and gate at the Foxmoor Road at-grade crossing of the Railroad's tracks need to be interconnected and coordinated with the operation of the proposed traffic signal system at U.S. Route 14 and Foxmoor Road;
- (15) the highway traffic presignals on the southeast side of the crossing need to be installed on a railroad signal cantilever which shall be installed by the Railroad as an integral part of the railroad signal system required solely as a result of the highway modifications and subject to the same cost allocation as the entire railroad signal system;
- (16) the Village proposes that the minimum simultaneous preemption time provided by the Railroad to IDOT for the proposed traffic signal preemption sequence at the Foxmoor Road crossing of the Railroad's tracks should be twenty-five seconds (25").

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the petition of the Village of Fox River Grove, McHenry County, Illinois, be, and the same is hereby granted permission for 1) the installation of interconnect traffic signals at the intersection of U.S. Route 14 (Northwest Highway) and Foxmoor Road with the railroad warning devices at the Foxmoor Road at-grade crossing of the Railroad's double mainline tracks; 2) establish the minimum preemption time provided by the Railroad to IDOT for the traffic signal preemption sequence at said intersection; 3) provide a six foot (6') wide sidewalk

platform across the tracks; and 4) install the southeast side traffic presignals on a railroad signal cantilever in the interest of public safety and convenience.

IT IS FURTHER ORDERED that IDOT or IDOT's contractor shall install an overhead traffic signal on the railroad cantilever on the southeast side of the subject crossing and IDOT agrees that such installation shall be performed using a bucket truck and IDOT and IDOT's contractor and its employees shall be prohibited from climbing onto the railroad cantilever to install, repair, maintain, or rehabilitate the overhead traffic signals.

IT IS FURTHER ORDERED that IDOT or IDOT's contractor shall install and thereafter maintain the highway traffic signals approved herein and circuitry therefore and the Railroad shall install and thereafter maintain all of the railroad signals and circuitry herein required by this Order and IDOT agrees to require its contractors, subcontractors and their employees performing said installation and maintenance on the Railroad's property including the cantilever to execute and deliver to the Railroad a Right-of-Entry Agreement in the form of that attached to the Railroad's Response to Hearing Examiner's Interim Order as Exhibit 3.

IT IS FURTHER ORDERED that the new cantilever is part of the railroad system and will remain the property of the Railroad; the cost for the new cantilever shall be divided on the same basis as all other components of the railroad signal system.

IT IS FURTHER ORDERED by the Commission that the subject highway-rail grade crossing warning system shall be designed to provide for a minimum of twenty-five seconds (25") simultaneous preemption time for the normal operation of through trains at the subject at-grade crossing, identified as DOT 174364F and shall thereafter be maintained by the Railroad.

IT IS FURTHER ORDERED that the Railroad shall not take any action which would result in a reduction of the minimum simultaneous preemption time herein required for the normal operation of through trains at the aforesaid crossing without approval of the Commission.

IT IS FURTHER ORDERED that the Railroad shall post a readily visible notice inside their warning system bungalow at the aforesaid crossing notifying their personnel not to take any action which would result in a reduction of the simultaneous minimum railroad preemption time herein required without the approval of the Commission. An actual size copy of the notices shall be submitted to the Commission's Railroad Safety Program Administrator for approval.

IT IS FURTHER ORDERED that IDOT shall post a readily visible notice inside their traffic signal bungalow notifying their personnel not to alter the railroad preemption sequences for the traffic signals interconnected with the

railroad warning devices at the aforesaid at-grade crossing in a manner which would reduce the amount of time vehicles encroaching the track zone would have to clear the tracks, without the approval of the Commission; an actual size copy of the notices shall be submitted to the Commission's Railroad Safety Administrator for approval.

IT IS FURTHER ORDERED that the parties are hereby required and directed to proceed immediately in performing the work required of them and shall complete these respective improvements within eighteen (18) months from the date of this Order.

IT IS FURTHER ORDERED that the Railroad, in consultation with IDOT, shall design the railroad cantilever herein required, to meet the specifications, requirements, and needs of the Railroad, IDOT, and the Commission.

IT IS FURTHER ORDERED that upon approval of all required plans for the interconnect traffic signals and traffic presignals by the Commission, the Railroad shall within ninety days, submit detailed cost estimates to all parties and the Commission thereafter shall prepare a cost allocation and supplement this Order in accordance with such cost allocation.

IT IS FURTHER ORDERED that IDOT's contractor shall be responsible for all traffic signal installation, maintenance, repair, and replacement and that the Railroad shall not be liable for any damages to property or for bodily injury resulting from any traffic signal failure or malfunction.

IT IS FURTHER ORDERED that in the event the railroad cantilever requires replacement or substantial maintenance for whatever reason, the cost for such replacement or substantial maintenance will be apportioned to the Village and the Railroad in equal amounts.

IT IS FURTHER ORDERED that the Railroad shall within ninety days from the date of this Order file a Form 3 of 92 Illinois Administrative Code 1535 with the Commission showing details of the cantilever installation herein required, which includes IDOT's traffic signal mounting details and shall receive approval by X-Resolution before commencing the work of installation.

IT IS FURTHER ORDERED that IDOT's or IDOT's contractor shall notify the Railroad at least seven (7) days prior to commencing the traffic signal installation work herein required.

IT IS FURTHER ORDERED that IDOT and the Railroad shall each within six (6) months from the date of this Order furnish to the Director of Processing, Transportation Division of the Commission a written report stating the progress each has made toward the completion of the work herein required. Each progress report shall include the Commission Order number, the Order date, the

project completion date as noted in the Order, crossing information (inventory number and railroad milepost), type of improvement, and project manager information (the name, title, mailing address, telephone number and facsimile number of the employee responsible for management of the project). If the project is behind schedule, the report must also include a brief explanation of the reasons for the delay.

IT IS FURTHER ORDERED that the Railroad and IDOT shall each notify the Director of Processing, Transportation Division of the Commission within five (5) days of completion of their work herein required.

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction of this matter for purposes of entering such further order or orders as it may deem necessary.

IT IS FURTHER ORDERED that the Order heretofore entered on August 8, 2001, be and the same is hereby nugatory and should be held for naught.

By Order of the Commission this 24th day of October, 2001.

Richard L. Mathias³

Chairman

EXAMINED <i>TBT</i>
<i>[Signature]</i> Subscribed and sworn to

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Village of Fox River Grove, Illinois,
Petitioner,

v.

Union Pacific Railroad (UP) and the State of Illinois, Department of
Transportation (IDOT),
Respondents.

T01-0016

Petition to 1) interconnect traffic signals to be installed at the intersection of U.S. Route 14 (Northwest Highway) and Foxmoor Road with the railroad warning devices at the Foxmoor Road at-grade crossing of the UP double mainline tracks in the Village of Fox River Grove; 2) establish the amount of minimum preemption time provided by the UP to IDOT for the traffic signal preemption sequence at said intersection; 3) provide a 6' wide sidewalk platform across the tracks; 4) install the southeast side traffic presignals on a railroad signal cantilever.

SECOND INTERIM ORDER

By the Commission:

On February 27, 2001, the Village of Fox River Grove, McHenry County, Illinois ("the Village"), filed the above-captioned verified petition with the Illinois Commerce Commission ("Commission"), naming as Respondents the Union Pacific Railroad Company ("the Railroad") and the State of Illinois, Department of Transportation ("IDOT").

Pursuant to notice as required by the Law and the rules and regulations of the Commission, the matter came on for hearing before a duly authorized Administrative Law Judge of the Commission at its offices in Chicago on May 10, 2001. Appearances were entered by counsel for Petitioner and the Railroad and by a Railroad Safety Specialist from the Railroad Section, Transportation Division of the Commission. At the conclusion of a full and public hearing on the aforementioned date, the record was marked "Heard and Taken."

A proposed order was served upon the parties on or about May 3, 2002. No briefs on exceptions were filed.

An Interim Order was entered by the Commission on August 8, 2001. On August 23, 2001, the Railroad filed a Response to Hearing Examiner's Interim Order in which the Railroad requested that the order in this docket provide certain protections afforded the Railroad in Docket T98-0033, namely: a right —of-

entry agreement and a fixture easement; and a provision that IDOT and its contractors would be prohibited from climbing upon the railroad cantilever and would make repairs by bucket truck. The Commission's Interim Order was determined nugatory and held for naught and in its place a Supplementary Interim Order on Reconsideration was entered on October 24, 2001.

Among other things, the Supplementary Interim Order on Reconsideration ordered that upon approval of all required plans for the interconnect traffic signals and traffic presignals by the Commission, the Railroad should submit detailed cost estimates to all parties and the Commission thereafter should prepare a cost allocation and supplement this order in accordance with such cost allocation.

On April 11, 2002, the Railroad filed with the Commission its Estimate of Material and Force Account Work in accordance with the Supplementary Interim Order on Reconsideration, as follows:

<u>IMPROVEMENT</u>	<u>ESTIMATED COST</u>	<u>GCPE</u>	<u>RAILROAD</u>	<u>VILLAGE</u>	<u>COMPLETION FROM ORDER DATE</u>
Install interconnect circuitry and provide a minimum of 25 seconds of simultaneous preemption time at the Foxmoor Road (DOT 174 364F) at-grade crossing in Fox River Grove, IL. Install railroad cantilevers on both approaches to subject crossing	\$215,962	90% not to exceed	Remainder \$21,596		12 months
Note: The highway traffic control signal interconnect shall have a 3-wire supervised circuit.					
Extend crossing surface to accommodate proposed Sidewalk.	6,822			100%	12 months
Install traffic signals at the U.S. 14 @ Foxmoor traffic intersection including pre-signals on the south side of the crossing for northbound Foxmoor Road traffic, (of which one signal head is to be mounted on the proposed railroad cantilever); all roadway, signing, and pavement marking improvements associated with the installation of the subject traffic signals.	No estimate			100%	12 months
TOTALS	\$222,743	\$194,366	\$21,596	\$6,822	

The Commission, having reviewed the entire record herein and being advised in the premises, is of the opinion and finds that:

- (1) the Village of Fox River Grove, McHenry County, Illinois, is a political subdivision within the State of Illinois;

- (2) Union Pacific Railroad Company is a for-hire carrier of passengers and/or freight within the State of Illinois and is a rail carrier as defined by the Illinois Commercial Transportation Law;
- (3) the Department of Transportation of the State of Illinois is an agency of the State of Illinois;
- (4) the Commission has jurisdiction over the parties and the subject matter of this petition;
- (5) as ordered in the October 24, 2001 Supplementary Interim Order on Reconsideration, the Railroad has filed its Estimate of Material and Force Account Work and the costs therein have been allocated in accordance with the Supplementary Interim Order on Reconsideration;
- (6) the estimate of costs of material and force account work and the allocation of costs are fair and reasonable and should be approved.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Estimate of Material and Force Account Work filed by Union Pacific Railroad Company on April 11, 2002, be and the same is hereby, approved.

IT IS FURTHER ORDERED that the Supplementary Interim Order on Reconsideration, entered on October 24, 2001, remains in full force and effect.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Law, this is a final order subject to the Administrative Review Law.

By Order of the Commission this 19th day of June, 2002.

JUDGE	JBT
SECTION CHIEF	
ORDERS SUPERVISOR	

*Richard P. Mathias*³

Chairman



Illinois Department of Transportation

Highway Permit

District Serial No.

1-03-0135

Whereas, I (We) Village of Fox River Grove, 305 Illinois Street
(Name of Applicant) (Mailing Address)

Fox River Grove, Illinois 60021 hereinafter termed the Applicant,
(City) (State)

request permission and authority to do certain work herein described on the right-of-way of the State Highway

known as US Route 14, Section

from Station to Station

McHenry County. The work is described in detail on the attached sketch and/or as follows:

SEE PAGES ATTACHED HERETO AND
MADE A PART OF THIS PERMIT.

**ARROW BOARD MUST BE ON THE JOB
SITE DURING ANY LANE CLOSURES**

It is understood that the work authorized by this permit shall be completed within 180 days after the date this permit is approved, otherwise the permit becomes null and void.

This permit is subject to the conditions and restrictions printed on the reverse side of this sheet.

This permit is hereby accepted and its provisions agreed to this _____ day of _____

Witness

1166 Lake Avenue

Woodstock, IL 60098
Mailing Address

CityState

Signed

Village of Fox River Grove Tel 847-639-3170
Applicant

305 Illinois StreetCityStateFox River Grove, Illinois 60021

SIGN AND RETURN TO: District Engineer

Approved this APR 23 2003 day of _____

Department of Transportation

BY: _____

District Engineer

EXHIBIT

tabbles

C

First: The Applicant represents all parties in interest and shall furnish material, do all work, pay all costs, and shall in a reasonable length of time restore the damaged portions of the highway to a condition similar or equal to that existing before the commencement of the described work, including any seeding or sodding necessary.

Second: The proposed work shall be located and constructed to the satisfaction of the District Engineer or his duly authorized representative. No revisions or additions shall be made to the proposed work on the right-of-way without the written permission of the District Engineer.

Third: The Applicant shall at all times conduct the work in such a manner as to minimize hazards to vehicular and pedestrian traffic. Traffic controls and work site protection shall be in accordance with the applicable requirements of Chapter 6 (Traffic Controls for Highway Construction and Maintenance Operations) of the Illinois Manual on Uniform Traffic Control Devices for Streets and Highways and with the traffic control plan if one is required elsewhere in the permit. All signs, barricades, flaggers, etc., required for traffic control shall be furnished by the Applicant. The work may be done on any day except Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Work shall be done only during daylight hours.

Fourth: The work performed by the Applicant is for the bona fide purpose expressed and not for the purpose of, nor will it result in, the parking or servicing of vehicles on the highway right-of-way. Signs located on or overhanging the right-of-way shall be prohibited.

Fifth: The Applicant, his successors or assigns, agrees to hold harmless the State of Illinois and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of this permit.

Sixth: The Applicant shall not trim, cut or in any way disturb any trees or shrubbery along the highway without the approval of the District Engineer or his duly authorized representative.

Seventh: The State reserves the right to make such changes, additions, repairs and relocations within its statutory limits to the facilities constructed under this permit or their appurtenances on the right-of-way as may at any time be considered necessary to permit the relocation, reconstruction, widening or maintaining of the highway and/or provide proper protection to life and property on or adjacent to the State right-of-way. However, in the event this permit is granted to construct, locate, operate and maintain utility facilities on the State right-of-way, the Applicant, upon written request by the District Engineer, shall perform such alterations or change of location of the facilities, without expense to the State, and should the Applicant fail to make satisfactory arrangements to comply with this request within a reasonable time, the State reserves the right to make such alterations or change of location or remove the work, and the Applicant agrees to pay for the cost incurred.

Eighth: This permit is effective only insofar as the Department has jurisdiction and does not presume to release the Applicant from compliance with the provisions of any existing statutes or local regulations relating to the construction of such work.

Ninth: The Construction of access driveways is subject to the regulations listed in the "Policy on Permits for Access Driveways to State Highways." If, in the future, the land use of property served by an access driveway described and constructed in accordance with this permit changes so as to require a higher driveway type as defined in that policy, the owner shall apply for a new permit and bear the costs for such revisions as may be required to conform to the regulations listed in the policy. Utility installations shall be subject to the "Policy on the Accommodation of Utilities on Right-of-Way of the Illinois State Highway System."

Tenth: The Applicant affirms that the property lines shown on the attached sheet(s) are true and correct and binds and obligates himself to perform the operation in accordance with the description and attached sketch and to abide by the policy regulations.


**Illinois Department
of Transportation**
Highway Permit

Location:	US Route 14 @ Foxmoor Road - Fox River Grove IL		
Route:	US 14	Section:	
County:	McHenry	MS:	117
FE:	TGG/mc		
Applicant/CO Applicant:	Village of Fox River Grove		
Address:	305 Illinois Street Fox River Grove, IL. 60021		
Contractor:	Alliance Contractors		
Address:	1166 Lake Ave. Woodstock, IL. 60098		
Permit No:	1-03-0135	Date:	04/10/03
File No.	M-000521	Days:	180
Bond No.	8S104064120	Bond Amt.	\$75,000
Bonding Company:	Travelers Casualty & Surety Co. of America		
F/U:	10/07/03		

This permit authorizes you to proceed immediately with the work described as follows: the location, construction, operation and maintenance of the installation of new traffic signals at the subject intersection and the widening of US Route 14 to provide an eastbound right turn lane and left turn lane and a west bound right turn lane on US 14 and a northerly extension of Foxmoor Road to an existing shopping center. The permit will include new sidewalk and pedestrian traffic signals and the modification of an existing full access serving McDonald's east of Foxmoor Road to a right-in, right-out only access drive to US 14. The permit will include concrete curb and gutter removal and replacement, signing, reflective pavement marker removal and replacement, epoxy paint and thermoplastic pavement marking, PCC concrete pavement per standard 420101, B6.24 concrete curb and gutter, parkway restoration with 4 inch topsoil, 1A seed, and excelsior blanket or salt tolerant sod. The permit will include emergency vehicle preemption equipment, and traffic signal interconnection with the railroad cabinet. The permit will include all other collateral work and appurtenances as shown on the approved plans, traffic signal specifications, and special permit provisions for traffic signal permits. The PCC pavement and aggregate subgrade shall match existing pavement and subgrade thickness on US 14. All work to serve the Village of Fox River Grove, Illinois. The applicant is responsible for utility relocation.

This permit is issued only with the express understanding that the Applicant has obtained the "proper" authority for the said installation from the I.E.P.A.

Sheeting or other approved protection and trench backfill shall be used in all excavations in the pavement area, shoulder area, where excavation is within 10' of the edge of pavement or below the 1 to 1 slope line extended from edge of pavement and where directed by a representative of this Department.

THERE ARE STATE ELECTRICAL FACILITIES ON THE FRONTAGE OF THIS PROPERTY. THE STATE'S ELECTRICAL MAINTENANCE CONTRACTOR, MEADE ELECTRIC CO. (773) 287 - 7600 MUST BE NOTIFIED 72 HOURS IN ADVANCE OF CONSTRUCTION.

This permit is issued with the express understanding that no concentrated storm water will be channeled onto STATE RIGHT OF WAY.

Permit No. 1-03-0135

The closure of one lane of US Route 14 is authorized between the hours of 9 AM and 3 PM, Monday thru Friday, excluding holidays. Signs, barricades and flagpersons shall be utilized in accordance with State Standard 701606. The use of signs and barricades which do not conform with the attached Standard will be due cause for revocation of this permission and the immediate opening of all lanes of the particular roadway to all vehicular traffic.

Beginning on the date that the Contractor begins work on this project, he shall assume responsibility for the normal maintenance of all existing roadways within the limits of the improvement. This normal maintenance shall include all repair work deemed necessary by the Engineer, but shall not include snow removal operations. Traffic control and protection for this work will be provided by the Contractor as required by the Engineer.

The construction area adjacent to the pavement edge must be properly barricaded overnight, on weekends, and on days when no work is being performed in accordance with State Standard 701326.

The proposed sidewalk shall follow the existing ground contours as closely as possible and all the existing drainage patterns must be maintained unless otherwise authorized under this permit.

The above described installation and appurtenant structures thereto shall adhere in every detail to the marked and approved plan of record identified as Traffic Signal Installation Plan US Route 14 (Northwest Highway) and Foxmoor Road, Fox River Grove, Illinois sheets 1-14 of 14, dated, 11-22-02, prepared by Christopher B. Burke Engineering Ltd.; 9575 W. Higgins Road, Suite 600, Rosemont Illinois, 60018, (847) 823-0500, stamped by George M. Ziegler PE, and Final Engineering Plans for Foxmoor Crossing Road Improvements, phase two, sheets C-1 thru C-7 of 7, last revised 1/14/03, prepared by Compass Consulting Group, Ltd., 2631 Ginger Woods Parkway, Suite 100, Aurora IL, 60504 and Illinois and Foxmoor Road and US Route 14, sidewalk improvements, sheets 1,2 and 3 of 3, last revised 1/8/03, prepared by Baxter and Woodman, Inc. Crystal Lake, Illinois, (815) 459-1260, stamped by Anita M. Mitchell P.E.

The Applicant shall be responsible for ascertaining the correct location of property lines in connection with this permit.

The existing drainage of the highway must be preserved.

STATE FIELD ENGINEER Mr. Tom Gallenbach AT (847) 705-4131 MUST BE NOTIFIED 72 HOURS IN ADVANCE OF ALL PHASES OF CONSTRUCTION.

The latest edition of the State Standard Specifications for Road and Bridge Construction, and amendments thereto, as they relate to the construction practice and quality of workmanship and materials, shall apply to this work except when modified by conditions, restrictions, and special provisions outlined in the attached Permit Specifications.

A satisfactory executed bond has been submitted to insure fulfillment of the obligations assumed under this permit.

The Applicant shall assume all liability for interference with existing utilities in, along, or upon said highway.

Signs or other advertising media placed by the Applicant, his contractor, his successors or assigns, shall not encroach upon nor overhand the State right of way.

After completion of the work, the line and grade of shoulders and ditches shall be restored to a condition equal to that existing before commencement of the work.

Permit No. 1-03-0135

State right of way shall be graded and seeded, or sodded in accordance with any verbal instructions issued by State representatives.

The work authorized herein is subject to municipal and county requirements when not conflicting with Departmental minimum requirements.

UNDERTAKING ANY OF THE CONSTRUCTION AUTHORIZED HEREIN IS EVIDENCE OF CONCURRENCE WITH ALL THE TERMS OF THIS PERMISSION.

IN THE EVENT THIS PERMIT OR ANY SPECIFICATIONS CONTAINED HEREIN ARE NOT CLEAR, IT IS THE RESPONSIBILITY OF THE APPLICANT AND/OR CONTRACTOR TO CONTACT THIS OFFICE FOR CLARIFICATION.

cc: Traffic Field Engineer - Hanlon
Maintenance Field Engineer - Werner - Woodstock Yard
Daryl Drew - Programs


**Illinois Department
of Transportation**
**Individual Highway
Permit Bond**

Address _____ District _____
City / State _____ Bond No. 8 S 104064120 BCM

KNOWN ALL MEN BY THE PRESENTS, That I (We) Alliance Contractors, Inc.
(Name of Applicant)

1166 Lake Avenue, Woodstock, IL 60098

(Mailing Address)

as Principal, and Travelers Casualty & Surety Company of America
(Surety Company)

a corporation organized and existing under the laws of the State of Connecticut
and licensed to do business in the State of Illinois, are held firmly bound unto the people of the State of Illinois in the penal
sum of SEVENTY FIVE THOUSAND AND 0/100 Dollars

(\$ 75,000.00) lawful money of the United States well and truly to be paid unto said people of the State
of Illinois, for payment of which we bind ourselves, our successors and assigns, jointly, severally, and firmly by these
presents.

WHEREAS, Highway Permit No. _____ Issued by the Department of Transportation

of the State of Illinois grants to Alliance Contractors, Inc. permission and
authority to construct, locate, operate, and maintain the work described in said Permit, upon or adjacent to
US Route 14 in McHenry County as more fully
described in said Permit and Sketch, which by this reference are made a part hereof as if written herein at length, in and by
which Permit and Sketch the said Principal has promised and agreed to perform said described operation and related
activities in accordance with the terms and conditions of and description in said Permit and Sketch.

NOW, THEREFORE, if the said Principal shall well and truly perform said operations in accordance with the terms
and conditions of and description in said Permit and Sketch to the satisfaction of said Department, and shall perform no
other work or construction at said location without first applying for and receiving another permit from said Department, then
no claim or demand will be made against the above obligation. Otherwise, this bond or so much thereof as may be
necessary shall insure to the said Department as cost and expense to change and correct, during a period of five years
from the date of approval of this bond by the Department, said construction to conform to the terms and conditions of and
description in said Permit and Sketch.

IN WITNESS WHEREOF, WE HAVE DULY EXECUTED THE FOREGOING

This 20th Day of March, 2003

Principal Alliance Contractors, Inc.

Surety Travelers Casualty & Surety Co. of America

Address 1166 Lake Avenue

Address 215 Shuman Blvd.

City / State Woodstock, IL 60098

City / State Naperville, IL 60563

Telephone (815) 338-5900

By Gina M. Damato

By _____

Attorney in Fact

(Seal) Gina M. Damato, Attorney-In-Fact

(Seal)

Agent for Surety N/A

Department of Transportation

Address _____

By _____

District Engineer

City / State _____

By N/A



ALLIANCE CONTRACTORS, INC.

1166 LAKE AVENUE • WOODSTOCK, ILLINOIS 60098
OFFICE: 815/338-5900 FAX: 815/338-9109

May 19, 2003

Baxter and Woodman
8678 Ridgely Road
Crystal Lake, IL 60012

ATTN: Anita

Re: Rt. 14 & Foxmoor Rd.
Fox River Grove
ACI JOB #3022

Anita,

I am writing to bring you up to date on our progress with the road construction on this project.

To date, we have completed all curb, paving, storm sewer, etc., on the north side of Route 14 with the exception of the entrance work at McDonalds, which we cannot complete until the signals are operational.

We are presently working on the south side of Route 14 and have completed the excavation, storm sewer and stone base. We anticipate being completed with this side on approx. May 30, 2003.

The traffic signal work will begin the week of May 26, 2003, but will not be 100% complete for activation until approximately September 15, 2003, due to the long lead time for delivery of equipment.

If you have any questions, please contact our office.

Thank you,

ALLIANCE CONTRACTORS, INC.

Michael J. Paulson
Michael J. Paulson *eb*

MJP/rb

